

**BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Application of Pacific Gas and Electric Company for Compliance Review of Utility Owned Generation Operations, Electric Energy Resource Recovery Account Entries, Contract Administration, Economic Dispatch of Electric Resources, Utility Owned Generation Fuel Procurement, Diablo Canyon Seismic Studies Balancing Account, and Other Activities for the Period January 1 through December 31, 2015

(U 39 E)

Application 16-02-019
(Filed February 29, 2016)

**PACIFIC GAS AND ELECTRIC COMPANY'S (U 39 E)
REPLY IN SUPPORT OF MOTION TO AMEND SCOPING MEMO AND
RULING OF ASSIGNED COMMISSIONER**

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**BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company for Compliance Review of Utility Owned Generation, Electric Energy Resource Recovery Account Entries, Contract Administration, Economic Dispatch of Electric Resources, Utility Retained Generation Fuel Procurement, Diablo Canyon Seismic Studies Balancing Account, and Other Activities for the Period January 1 through December 31, 2015.

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Pacific Gas and Electric Company (“PG&E”) respectfully submits this reply in support of its motion to amend the Scoping Memo and Ruling of Assigned Commissioner (“Scoping Memo”). Administrative Law Judge Hymes authorized PG&E to file this reply pursuant to Commission Rule of Practice and Procedure 11.1(f) in an e-mail sent to PG&E on July 26, 2016. Judge Hymes’ e-mail authorizing PG&E’s reply was also copied to the service list in this proceeding.

In its motion, PG&E requested that the Scoping Memo be amended in two ways. First, PG&E requested that estimated, indirect greenhouse gas (“GHG”) costs be removed as an issue in this proceeding because these are not actual costs incurred by PG&E and the estimates themselves are squarely at issue in a separate proceeding. Second, PG&E requested that a reference to “cost-effectiveness” be deleted from the Scoping Memo because this standard is contradictory to California law. The Office of Ratepayer Advocates (“ORA”) and Panoche Energy Center LLC (“Panoche”) oppose PG&E’s motion on various grounds, none of which

provide a reasoned basis for rejecting PG&E's requests. As explained in more detail below, ORA's and Panoche's arguments are not well-founded. PG&E has demonstrated that good cause exists to amend the Scoping Memo and thus this motion should be granted.

I. INDIRECT GHG COSTS SHOULD NOT BE AN ISSUE IN THIS PROCEEDING

There is no dispute that indirect GHG costs are simply estimates used for the purpose of allocating GHG compliance instrument revenues in the Energy Resource Recovery Account ("ERRA") *Forecast* proceeding.¹ Indeed, Panoche acknowledges that "[i]ndirect GHG costs are estimates of the compliance costs associated with the amount of emissions for that power" and that the indirect GHG compliance costs estimates are used solely for purposes of GHG revenue allocation.² Similarly, ORA does not dispute the Commission's earlier determination that indirect GHG are "only used for calculating the allowance revenue returns to customers."³

While acknowledging that indirect GHG compliance costs are simply estimates used for revenue allocation purposes, ORA and Panoche both insist that the calculation of these costs needs to be reviewed somewhere.⁴ This calculation is reviewed somewhere, but not in this proceeding. The Commission was quite clear in D.14-10-033 that estimates of indirect GHG compliance costs would be included in the ERRA Forecast proceedings.⁵ For example, PG&E filed its 2017 ERRA Forecast on June 1, 2016 (Application 16-06-003) and included in that proceeding an entire chapter of testimony describing the calculation of direct and indirect GHG compliance costs.⁶

¹ Decision ("D.") 14-10-033 at pp. 13-16 (describing purpose of forecasting direct and indirect GHG costs in the ERRA Forecast proceeding).

² Panoche Response at p. 3.

³ D.14-10-033 at p. 15, n. 20.

⁴ ORA Response at p. 3; Panoche Response at p. 4.

⁵ D.14-10-033 at pp. 2-3.

⁶ See Application 16-06-003, PG&E's Prepared Testimony, Chapter 12.

If ORA and Panoche are concerned about the calculation of indirect GHG costs, the appropriate venue to address these concerns is the ERRA Forecast proceeding, not this proceeding. Indeed, in its protest in PG&E's 2017 ERRA Forecast proceeding, ORA proposed that one of the issues within the scope of that proceeding was "[w]hether the Commission should determine the methodology used in PG&E's forecast of indirect (embedded) GHG emissions and related costs [are] reasonable and consistent with Commission and State policies and laws."⁷ This is exactly the same issue that ORA now wants to litigate here. Other than the calculation of indirect GHG costs, which is squarely at issue in the ERRA Forecast proceeding, ORA and Panoche fail to identify any other issues directly related to indirect GHG compliance costs that should be addressed in this proceeding.⁸ There is no point in addressing the exact same issue in two proceedings, and doing so only creates a risk of inconsistent determinations and wastes resources.

ORA also argues that the issue of indirect GHG compliance costs was not included in earlier ERRA Compliance proceeding Scoping Memos because the Commission decision adopting the calculation of indirect GHG compliance costs was not issued until October 2014 and was not implemented until 2015.⁹ While ORA is correct about the timing, it does not change the fact that the Commission identified the ERRA Forecast proceeding as the appropriate venue for the calculation of indirect GHG costs for GHG allowance revenue return purposes, not this proceeding.

⁷ *Protest of the Office of Ratepayer Advocates* filed July 6, 2016 in Application 16-06-003 at p. 4.

⁸ ORA Response at p. 3 (stating that the issue in this proceeding is the "calculations for indirect GHG emissions and associated costs."); Panoche Response at p. 4 (same). ORA also notes that the issue of indirect GHG costs may be related to contract administration. However, review of contract administration is already in scope in this proceeding and it is unclear from ORA's response how adding additional issues related to indirect GHG costs changes or adds to that review.

⁹ ORA Response at p. 2.

II. COST-EFFECTIVENESS IS NOT THE STANDARD IN THIS PROCEEDING

There seems to be some confusion among the parties as to what the cost-effectiveness sentence in the Scoping Memo is intended to address. In its response, ORA focuses solely on the cost-effectiveness of GHG compliance instrument procurement.¹⁰ Panoche on the other hand asserts that the cost-effectiveness standard applies to least-cost dispatch.¹¹ The Scoping Memo is not clear what the cost-effectiveness standard should be applied to in this proceeding. For that reason alone, because it is unclear, the sentence regarding cost-effectiveness should be removed from the Scoping Memo. Moreover, neither ORA nor Panoche offer any reason to retain the cost-effectiveness language, nor are they able to demonstrate that it is consistent with California law.

ORA argues that there is some level of flexibility in the utilities' respective GHG compliance instrument procurement plans approved by the Commission and thus the issue of whether the utilities cost-effectively utilized this flexibility is appropriate. This argument is completely inconsistent with California Public Utilities Code section 454.5, which provides that once a procurement plan is approved by the Commission, the only review is whether the utility complied with the plan, not whether specific transactions were "cost-effective."¹² Indeed, an approved procurement plan is intended to create "upfront achievable standards and criteria" that are known by a utility before it executes a transaction.¹³ An unspecified standard of cost-effectiveness, that is evaluated and imposed after the fact, is directly contrary with these statutory requirements.

¹⁰ ORA Response at pp. 3-5.

¹¹ Panoche Response at pp. 4-7.

¹² Cal. Pub. Util. Code § 454.5(d)(2).

¹³ *Id.*, § 454.5(b).

If ORA believes that the requirements in PG&E's Commission-approved GHG procurement plan are not sufficiently prescriptive, or that they allow PG&E too much flexibility, the appropriate remedy would be for ORA to propose additional requirements that limit flexibility before the GHG procurement plan is approved. ORA actively participated in the 2014 Long-Term Procurement Plan proceeding (Rulemaking 13-12-010) in which the Commission issued Decision 15-10-031 approving PG&E's Bundled Procurement Plan, including the GHG procurement plan. If ORA wanted to propose limits on PG&E's flexibility or otherwise impose additional procurement requirements for GHG compliance instruments, it should have done so in that proceeding. What ORA is barred from doing by California law is now trying to evaluate, after-the-fact, whether PG&E's GHG compliance instrument procurement was "cost-effective."

In its response, Panoche does not refer to GHG procurement with regard to cost-effectiveness. Instead, Panoche argues that the cost-effectiveness language included in the Scoping Memo applies to least-cost dispatch.¹⁴ PG&E does not dispute that the cost-effectiveness of least-cost dispatch is an issue in this proceeding. This concept has been adopted by the Commission in Standard of Conduct #4 which provides in part that "[least-cost dispatch] refers to a situation in which the most cost-effective mix of total resources is used, thereby minimizing the cost of delivering electric services."¹⁵ However, a demonstration of least-cost dispatch is already in scope for this proceeding, and the Commission recently issued a detailed decision outlining the specific information that needs to be included in a least-cost dispatch showing.¹⁶ Because the Commission has already addressed in detail the elements of a least-cost dispatch showing, which PG&E included in its prepared Testimony and Workpapers, there is no

¹⁴ Panoche Response at pp. 4-5.

¹⁵ The procurement standards of conduct were originally adopted in D.02-10-062 and were later modified in D.02-12-074, D.03-06-067, and D.03-06-076.

¹⁶ See D.15-05-006, as modified by D.15-12-015.

need for additional language in the Scoping Memo regarding cost-effectiveness on that issue. More importantly, the current language in the Scoping Memo creates confusion because it is unclear what the cost-effectiveness requirement applies to in this proceeding. Thus, this sentence in the Scoping Memo should be deleted.

III. CONCLUSION

Based on the foregoing, PG&E respectfully requests that the Scoping Memo be amended to remove the two issues related to indirect GHG costs and to remove the sentence on page 4 regarding this compliance review including a cost-effectiveness determination.

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